

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Thursday, June 3, 2010 at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia 23233.

The following members were present:

F. James Ahlberg
Pamela Coerse
Ronda S. DeSplinter
Kimberly B. Kacani, Vice Chair
Douglas Kleine
Milton W. Matthews
R. Lee Merritt
Scott Sterling
Miyun Sung
Lucia Anna Trigiani, Chair
Katherine Waddell (arrived at 10:55 a.m.)

DPOR staff present for all or part of the meeting included:

Gordon Dixon, Director
Mark N. Courtney, Deputy Director of LRD
Nick Christner, Deputy Director of CID
Heather Gillespie, Ombudsman
Trisha L. Henshaw, Executive Director
Thomas K. Perry, Property Registration Administrator
Jesstina Adelman, Program Analyst
Betty C. Jones, Administrative Assistant
Earlyne Perkins, Legal Analyst

Steven Jack from the Office of the Attorney General was present.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 9:40 a.m. **Call to Order**

Ms. Coerse moved to approve the agenda as revised. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, and Trigiani. **Approval of Agenda**

Ms. Trigiani introduced Gordon Dixon as the new Director of DPOR. **Introduction of**

Director

Ms. Kacani moved that the Board approve the minutes of the following meetings:

Approval of Minutes

- March 2, 2010, Board Meeting
- March 29, 2010, Manager Regulatory Review Committee Meeting
- April 22, 2010, Informal Fact Finding Conference
- May 6, 2010, Informal Consultation Proceeding Minutes
- May 6, 2010, Manager Regulatory Review Committee Meeting
- June 2, 2010, Training Program Review Committee Meeting

Mr. Matthews seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, and Trigiani.

Ms. Trigiani opened the floor for public comment. Ms. Jean Gorman addressed the Board during the Public Comment Period concerning what steps she needed to take to become a licensed manager. Ms. Trigiani advised Ms. Gorman to speak with Board staff about the specifics of her situation and thanked Ms. Gorman for her concern about being in compliance.

Public Comment Period

Ms. Trigiani transferred the Chair to Mr. Matthews and recused herself from the meeting.

Transfer of Chair

Regarding **File Number 2010-00562, Shirley D. Sarraga**, the Board reviewed a request from Ms. Sarraga to reschedule the hearing. Mr. Ahlberg made a motion to grant a continuance and defer consideration of this matter to the June 24, 2010, Board meeting. Mr. Merritt seconded the motion which was approved by: Ahlberg, Coerse, DeSplinter, Matthews, Merritt, Sterling, and Sung. Member voting in opposition to the motion was Kleine. Ms. Trigiani did not participate in the discussion or vote. As the presiding Board member, Ms. Kacani recused herself from the meeting and was not present during the discussion or vote.

File Number 2010-00562, Shirley D. Sarraga, t/a Lakeside Community Management

Ms. Trigiani returned to the meeting and resumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2010-03598, Kensington Condominium Association, Inc.**, the Board reviewed the Consent Order as seen and agreed to by Kensington Condominium Association, Inc. Mr. Matthews made a motion to accept the proposed Consent Order as presented to the

File Number 2010-03598, Kensington Condominium Association, Inc.

Board. Mr. Kleine seconded the motion which was approved by: Ahlberg, Kleine, Matthews, and Sung. Members voting in opposition to the motion were: Coerse, DeSplinter, Kacani, Merritt, and Sterling. The motion failed.

Ms. Kacani made a motion to reject the Consent Order as presented, amend the first line on page 2, paragraph 2 of the Consent Order to state "Further, in addressing Count 2, Kensington Condominium Association, Inc. agrees to take all steps necessary and available to perfect liens on all properties that are currently delinquent in assessment payments, in compliance with § 55-79.84.C of the Code of Virginia, and to provide evidence, in a manner acceptable to the Board, of its compliance with this provision." Mr. Merritt seconded the motion. After discussion, Ms. Kacani withdrew the motion.

Mr. Matthews made a motion to accept the Consent Order as presented to the Board. Mr. Ahlberg seconded the motion which was approved by: Ahlberg, Coerse, Kleine, Matthews, and Sung. Members voting in opposition to the motion were DeSplinter, Kacani, Merritt, Sterling, and Trigiani. The motion failed.

Ms. Sung made a motion to reject the Consent Order for the Kensington Condominium Association, Inc., and offer a new Consent Order, amending the language in the draft Consent Order presented as follows: delete "and admits that it is currently not in compliance with the provisions of the Condominium Act outlined in the Memorandum of Facts," and amend the first line of paragraph 2 on page 2 to replace "Further, for violation of Count 2, Kensington Condominium Association, Inc. agrees to take all steps necessary and available to perfect liens on all properties that are currently delinquent in assessment payments, in compliance with § 55-79.84.C of the Code of Virginia, and to provide evidence, in a manner acceptable to the Board, of its compliance with this provision" with "Further, in consideration of Count 2 Kensington Condominium Association, Inc. agrees to take all steps necessary and available to perfect liens on all properties that are currently delinquent in assessment payments, in compliance with § 55-79.84.C of the Code of Virginia, and to provide evidence, in a manner acceptable to the Board, of its compliance with this provision." Further, Ms. Sung moved that Kensington Condominium Association, Inc. has two weeks to accept this offer or the matter will proceed to an Informal Fact-Finding Conference. Ms. DeSplinter seconded the motion which was approved by: Ahlberg, Coerse, DeSplinter, Kleine, Merritt, Sterling, Sung, and Trigiani. Members voting in opposition to the motion were Kacani and Matthews.

After introducing Jesstina Adelman, the new Program Analyst for the Board staff, the Board recessed at 10:47 a.m. and reconvened at 11:07 a.m.

Introduction of Staff and Break

Ms. Waddell arrived at 10:55 a.m.

Arrival of Board Member

Ms. Henshaw gave an update on the status to-date of the regulatory review processes for several of the Board's regulatory packages.

Update on Regulatory Review Process

- The Common Interest Community Ombudsman Regulations are currently undergoing review by the Secretary of Commerce and Trade.
- The Common Interest Community Manager (Employee Certification Regulations) are currently in the Notice of Intended Regulatory Action stage. These draft regulations were developed by a committee of the Board. The recommendation of the Committee will be presented for consideration at the June 24, 2010, Board meeting.
- The Common Interest Community Manager Regulations to amend a code citation are in the exempt action final stage and have been published, with an effective date of July 1, 2010.

Ms. Henshaw informed the Board that due to the passage of SB 474, all regulatory boards at DPOR are required to promulgate regulations concerning the issuance of temporary licenses. The Board was presented with a draft for consideration. The draft text, which states that the Board would not issue temporary licenses, was recommended by staff as the Board does not have any requirements that would prevent immediate issuance of a license upon receipt and review of a completed application. After discussion, Ms. Coerse moved to adopt the draft regulations regarding temporary licenses pursuant to SB 474 as recommended by staff and authorize staff to proceed with filing the regulations through the emergency process. Mr. Kleine seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, Trigiani, and Waddell.

Adopt Emergency Regulations Regarding Temporary Licenses Pursuant to SB 474

Ms. Henshaw provided the Board with draft regulatory language for Board consideration governing the return of bonds and letters of credit and the termination of condominium projects pursuant to § 55-79.84:1 of the Code of Virginia. After discussion, Mr. Matthews moved to

Initiate Fast-Track Regulatory Process for Condominium Regulations

adopt the draft language and authorize staff to proceed with filing the regulations via the fast-track process. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, Trigiani, and Waddell.

**Pursuant to
§ 55-79.84:1 of the
Code of Virginia**

Ms. Trigiani transferred the Chair to Ms. Kacani and recused herself from the meeting.

Transfer of Chair

Mr. Perry provided a summary of the first meeting of the Training Program Review Committee which was held on June 2, 2010. The Committee unanimously recommended the following action by the Board.

**Review Training
Programs/Report
from June 2, 2010,
Training Program
Review Committee**

1. Approve the M-100 training program presented by Community Associations Institute as an Introductory Training Program as submitted with a retroactive approval date of January 1, 2003.

2. Approve the CID 201 training program presented by the Institute of Real Estate Management as an Introductory Training Program as submitted with a retroactive approval date of January 1, 2007.

3. Approve the PCAM Coursework training program presented by Community Associations Institute as a Comprehensive Training Program as submitted with a retroactive approval date of January 1, 2000.

Mr. Matthews moved to approve the M-100 training program submitted by Community Associations Institute as an introductory training program with a retroactive approval date of January 1, 2003. Mr. Merritt seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, and Waddell. Ms. Trigiani did not participate in the discussion or vote.

**Introductory
Training
Course/Community
Associations
Institute**

Ms. Coerse moved to approve the Professional Community Association Manager coursework submitted by Community Associations Institute as a comprehensive training program with a retroactive approval date of January 1, 2000. Mr. Ahlberg seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, and Waddell. Ms. Trigiani did not participate in the discussion or vote.

**Comprehensive
Training
Course/Community
Associations
Institute**

Ms. Trigiani returned to the meeting and resumed the position of Chair.

Transfer of Chair

Ms. Kacani moved to approve the CID 201 training program submitted by the Institute of Real Estate Management as an introductory training program with a retroactive approval date of January 1, 2007. Ms. Coerse seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, Trigiani, and Waddell.

**Introductory
Training Course/
Institute of Real
Estate Management**

As a result of reviewing these three applications, Mr. Perry indicated that the Committee recommends that the Board consider the following regulatory changes:

- ❖ Incorporate time allocations for each subject area.
- ❖ Include environmental issues as an additional subject area.
- ❖ Require instructors to be familiar with Virginia laws and regulations related to common interest community management.
- ❖ Require a state-specific training component as an entry requirement for certification that would cover Virginia statutes related to common interest communities as well as the Board's regulations.

Ms. Henshaw indicated that these items will be incorporated into the draft regulations for consideration at the June 24, 2010, Board meeting.

The Board recessed for lunch from 12:11 p.m. to 12:59 p.m.

Lunch

The Board discussed a memorandum from Ms. Henshaw regarding whether late fees should be included in gross assessment income for calculating annual assessment fees. Mr. Sterling made a motion that late fees, interest charge, and similar fees imposed on delinquent assessment accounts should be included in the gross assessment income. Ms. Waddell seconded the motion which was unanimously approved by: Ahlberg, Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Sung, Trigiani, and Waddell.

**Discussion of Gross
Assessment Income
for Calculating
Annual Assessment
Fee**

The Board discussed several legislative ideas for the 2011 General Assembly session. The items presented for consideration consist of amendments intended to clarify the statutes pertinent to the Board's programs. The Board agreed by consensus to accept the recommendations.

**Discussion of
Legislative Ideas
for 2011 General
Assembly Session**

As requested at the March 2, 2010, Board meeting, the Board reviewed the revised Outreach Plan prepared by staff in accordance with the Board's comments. Ms. Henshaw advised the staff was utilizing the Outreach Plan as it begins efforts to increase awareness of the Board's activities to the public. Board members were asked to provide any

**Review Outreach
Plan**

additional resources that may be identified in the future.

After discussion, the Board moved to adopt the following 2011 Board and Committee meeting dates by consensus:

**2011 Proposed
Meeting Schedule**

March 9, 2011 – Training Program Review Committee Meeting
March 10, 2011 – Board Meeting

June 8, 2011 – Training Program Review Committee Meeting
June 9, 2011 – Board Meeting

September 21, 2011 – Training Program Review Committee Meeting
September 22, 2011 – Board Meeting

November 30, 2011 – Training Program Review Committee Meeting
December 1, 2011 – Board Meeting

The Committee meeting dates will be held as necessary depending upon whether staff receives training program applications during the specified quarter. The Board was advised that the formal hearing previously scheduled for this meeting was continued pursuant to a request from an attorney on behalf of the respondent. After discussion, the Board agreed by consensus to set an additional Board meeting on July 9th to hold the formal hearing and conduct any other Board business as necessary. The Board also agreed by consensus to begin the formal hearing at 10:00 a.m.

**Set Meeting Date
for Additional
Board Meeting/
Formal Hearing**

Ms. Gillespie provided an Outreach Plan and a report on the activities of the Office of the Common Interest Community Ombudsman, including statistical information on complaints filed with the Ombudsman's office.

**Ombudsman's
Report**

- Board actions (or lack thereof) continues to be the primary complaint with a focus on access to records, due process, assessments (especially special assessments), elections, and use or misuse of power.
- Time-share complaints continue to center on perceived misrepresentations at the time-share presentations and the subsequent decision by purchaser to enter into a contract.
- Declarant control of condominiums continues to be a high level concern, with declarant's unwillingness to pay assessments and unwillingness to hand over control being the primary concerns.

Ms. Trigiani requested information regarding the status of the website for the Office of the Ombudsman. Ms. Gillespie advised that the

website had been prepared and would be posted to the web as soon as possible.

Ms. Trigiani expressed the importance of getting information to the public about the Board as there are a number of associations that are not registered with the Board but should be.

Ms. Henshaw provided a copy of statistical information on common interest community applications and licenses, including the number of new applications filed, percentage of applications received, the regulant population, and the number of telephone calls and e-mail messages received in the Board office for April 2010.

**Licensing/
Registration
Statistics**

Ms. Henshaw provided the Board's most recent financial statement for informational purposes. Also, a copy of the Virginia Common Interest Community Management Recovery Fund financial statements for the quarter ended on March 31, 2010, was provided.

**Board Financial
Statements**

The Board previously requested that staff compile a calendar of the common interest community-related events and dates that staff and the Ombudsman's office attends. The requested information was provided to the Board with the agenda package for information purposes.

**Staff Event
Calendar**

The Board members were reminded to complete their conflict of interest forms and travel vouchers.

**Conflict of Interest
and Travel Voucher
Forms**

There being no further business, the meeting was adjourned at 2:34 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Gordon Dixon, Secretary